IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 446 OF 2003
IN
SUMMARY SUIT NO. 644 OF 2003

Pankaj Gupta
and another. ... Plaintiffs.

V/s.

Top Syringe Manufacturing Co.
and others. ... Defendants.

Ms.Kavita Shah i/b. A.G.Shah
for the plaintiff.

CORAM : D.G. KARNIK, J.

DATED : 22nd February, 2005.

P.C. :

. Learned counsel for the plaintiff does not press summons for judgment and suit against defendant No.8. The summons for judgment and the suit against defendant No.8 are dismissed for want of prosecution.

2. Heard learned counsel for the plaintiff. None prevent for the defendants.

3. Learned counsel for the plaintiff hands in affidavit of service dated 22nd February 2005 and list of documents. The affidavit and documents are taken on record and marked Exh.'A' and 'B' respectively.

4. Despite service of the summons for judgment, the defendants have not applied for leave to defend the suit nor they have filed any affidavit-in-reply. In the circumstances, the averments made in the plaint are deemed to be admitted. The plaintiff is also entitled to a decree under order 37 rule 3(6)(a) of Code of Civil Procedure, 1908.

3. I have perused the plaint and the original documents tendered. The defendant No.1 drew bill of exchange in favour of plaintiff which was accepted by defendant No.4. Defendant Nos.2 and 3 are the partners of defendant No.1 firm and defendant Nos.5 to 7 are the partners of defendant No.4 firm. As such defendant Nos.1 to 7 are liable for payment.

4. In the absence of any affidavit in reply the summons for judgment of the plaintiff is made absolute against defendant Nos.1 to 7 and the suit against defendant Nos.1 to 7 is decreed as follows:

(i) Defendant Nos.1 to 7 shall pay to the plaintiff Rs.68,750/- together with interest thereon at the rate of 9% per annum from the date of the suit till payment and all costs of the suit.

(ii) Issue court fee refund as per the rules.

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